

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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JAMES LEE,	:	
	:	
	:	
Plaintiff,	:	
	:	22-CV-7504 (VSB)
-against-	:	
	:	<b><u>ORDER</u></b>
RIVERBAY CORPORATION;	:	
RESIDENTIAL MANAGEMENT GROUP,	:	
LLC d/b/a DOUGLAS ELLIMAN	:	
PROPERTY MANAGEMENT; NOEL	:	
ELLISON; WARREN MITCHELL; INELLE	:	
COOPER; and ROBERT KLEHAMMER,	:	
	:	
Defendants.	:	
	:	
-----X		

VERNON S. BRODERICK, United States District Judge:

On November 28, 2022, Plaintiff filed an amended complaint pursuant to Federal Rule of Civil Procedure 15(a)(1)(B). “[W]hen a plaintiff properly amends [a] complaint after a defendant has filed a motion to dismiss that is still pending, the district court has the option of either denying the pending motion as moot or evaluating the motion in light of the facts alleged in the amended complaint.” *Pettaway v. Nat’l Recovery Sols., LLC*, 955 F.3d 299, 303–04 (2d Cir. 2020). Accordingly, it is hereby:

ORDERED that Defendants shall file a letter by December 6, 2022 stating if their motion to dismiss should be deemed moot without prejudice to refile a new motion to dismiss in accordance with Federal Rule of Civil Procedure 15(a)(3), or if I should evaluate Defendants’ current motion to dismiss in light of the facts alleged in the amended complaint.

SO ORDERED.

Dated: November 30, 2022  
New York, New York

A handwritten signature in black ink, reading "Vernon Broderick". The signature is written in a cursive style with a large, stylized "V" and "B".

Vernon S. Broderick  
United States District Judge